

**BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

---

Meeting Date: August 18, 2004  
Bulk Item: Yes X No       

Division: Growth Management  
Department: Planning

**AGENDA ITEM WORDING:** Approval to amend one Affordable Housing Deed Restriction for nine dwelling units from Historic Tours of America, Inc.

**ITEM BACKGROUND:** Nine Affordable Housing Allocation awards were approved for the Douglas & Lynn Bell and Jack & Joyce Sweeting by the Planning Commission on March 13, 2002, and the Board of County Commission on April 17, 2002. The Affordable Housing Deed Restriction for the nine residential units was recorded in the Monroe County Public Records File #1297686, Book 1781, Page 109 to 112 on May 1, 2002. The Affordable Housing Deed Restriction in part limited 1) the adjusted gross income of each unit's occupants to one-hundred percent of the median income, 2) each residential unit to 1,300 square feet of habitable space, and 3) each unit restricted for a period of twenty years.

The Bells and Sweetings sold the property to Historic Tours of America, Inc. The current owners have requested Monroe County to Amend the recorded Affordable Housing Deed Restriction to reflect the Affordable Housing changes pursuant to County Ordinance No. 030-2003. The amended changes in part for each unit would be 1) the adjusted gross income for each unit's occupants to one-hundred-twenty percent of the median income, 2) restricted for a period of thirty years, 3) maximum sales price of four and one-quarter times the annual median household income for Monroe County calculated at the time of sale.

**PREVIOUS RELEVANT BOARD ACTION:** On November 11, 1999, the BOCC adopted Ordinance No. 047-1999. On April 17, 2002 the BOCC approved Affordable Housing Deed Restriction for the Bells/Sweetings. On July 15, 2003 the BOCC adopted Ordinance No. 030-2003.

**CONTRACT/AGREEMENT CHANGES:** N/A.

**STAFF RECOMMENDATION:** Approval.

**TOTAL COST:** X

**BUDGETED:** Yes N/A No       

**COST TO COUNTY:** N/A

**REVENUE PRODUCING:** Yes N/A No        **AMOUNT PER MONTH** N/A **Year**       

**APPROVED BY:** County Atty X OMB/Purchasing N/A Risk Management N/A


**DIVISION DIRECTOR APPROVAL:**   
Timothy J. McGarry, AICP

**DOCUMENTATION:** Included X To Follow        Not Required       

**DISPOSITION:**       

**AGENDA ITEM #** H19

## M E M O R A N D U M

**TO::** Danny Kolhage, Clerk of the Court  
**FROM:** Timothy J. McGarry, Growth Management Director   
**DATE:** August 18, 2004  
**RE:** Clarification of Agenda Item

---

### Affordable Housing

<b>Permit Number</b>	<b>Name on Agenda Item</b>	<b>Name on Restrictive Covenant</b>	<b>Legal Description</b>
01-1-0344, 01-1-0345, 01-1-0346, 01-1-0347, 01-1-0348, 01-1-0349, 01-1-0350, 01-1-0351, 01-1-0355	Historic Tours of America, Inc.	Historic Tours of America, Inc.	Part Government Lot 3 (Sec. 3, Twp. 67, Rng. 27) Sugarloaf Key (RE: 00118430.000000)

**AMENDED  
MONROE COUNTY PLANNING DEPARTMENT  
AFFORDABLE HOUSING DEED RESTRICTION  
(DOLPHIN COVE PROJECT)**

**STATE OF FLORIDA  
COUNTY OF MONROE**

Notice is hereby given that:

- I. On or about May 1, 2002, Douglas and Lynn Bell, husband & wife, and Jack & Joyce Sweeting, husband & wife ("Prior Owners") executed and recorded a certain Monroe County Planning Department Affordable Housing Deed Restriction ("First Deed Restriction") in the Monroe County Records Book at Book No. 1781, Page No. 109.

Since the recordation of the First Deed Restriction, however, the subject property has been conveyed and transferred to Historic Tours of America, Inc. ("Owner"), and Owner anticipates conveying the subject property to Dolphin Cove, LLC, a Florida limited liability company. Owner anticipates that Dolphin Cove, LLC ("Dolphin Cove") shall then convey the individual affordability-restricted units to qualified purchasers.

Additionally, since the recordation of the First Deed Restriction, Monroe County has amended the Monroe County Code provisions regarding affordable housing, via County Ordinance No. 30-2003.

Monroe County and Owner wish to amend the First Deed Restriction with this Amended Deed Restriction, and have this Amended Deed Restriction apply to the nine affordable housing owner-occupied moderate income units, which units have been constructed on the property pursuant to the Building Permit Numbers outlined in Article III, below.

- II. Historic Tours of America, Inc., the undersigned, is the sole owner(s) of certain real property, situated, lying and being in Monroe County, State of Florida, described as follows:

**See Legal Description attached hereto as Attachment "A".**

**Real Estate Number: 00118430.000000**

- III. The residential unit Building Permit Number(s) are: (Unit 1: 01-1-0344), (Unit 2: 01-1-0345), (Unit 3: 01-1-0346), (Unit 4: 01-1-0347), (Unit 5: 01-1-0348), (Unit 6: 01-1-0349), (Unit 7: 01-1-0350), (Unit 8: 01-1-0351), and (Unit 9: 01-1-0352).
- IV. Under the applicant(s) or owner-occupied moderate income affordable housing provisions set forth in Chapter 9.5 of Monroe County Land Development Regulations, the owner or owners of the above-described real property have been exempted from payment of "Fair Share Impact Fees" for nine single-family residential units to be constructed on said real property.
- V. The annual adjusted gross income for the owner-occupied household does not exceed one hundred-twenty (120) percent of the median adjusted gross annual income with Monroe County.
- VI. Under Monroe County Code Section 9.5-266, the affordable housing dwelling unit is restricted to a maximum of one thousand three hundred (1,300) square feet habitable space for a period of thirty (30) years.
- VII. The Maximum sales price of each affordable housing unit shall mean a price not exceeding four and one-quarter (4.25) times the annual median household income for Monroe County calculated at the time of the sale.
- VIII. The Owner has used the affordable housing program to gain additional points in the permit allocation system pursuant to Monroe County Code Section 9.5-122.3(6).
- IX. The covenants shall be effective for thirty (30) years, but shall not commence running until a certificate of occupancy has been issued by the building official for the dwelling unit(s) to which the covenant or covenants apply. This deed restriction shall remain in effect for thirty (30) years regardless of the owner(s) or occupant(s) ability to comply or re-qualify on an annual basis or as otherwise may be required.
- X. At the time of sale, the affordable housing unit may only be sold to a household within the same or lower income class, i.e. a moderate income household which purchased a home within this category must sell the home to a qualifying household with moderate income or a lower income category.

Real Estate No. # 00118430.000000

- XI. All of the restrictions herein shall be binding upon any transferees, lessees, heirs, assigns or successors in the chain of title, including, but not limited to, Dolphin Cove, LLC.
- XII. Monroe County may enforce this Amended Affordable Housing Deed Restriction through any legal procedure available, whether at law or equity.
- XIII. This Amended Affordable Housing Deed Restriction replaces the First Deed Restriction.

I/we certify that I/we am/are familiar with the information herein contained and that it is true and correct to the best of my knowledge and belief; and I/we will abide by the above stated restrictions pursuant to Monroe County Code Chapter 9.5 as may be amended from time to time.

WITNESSESS:

Karen G. Moran  
(Signature)

KAREN G. MORAN  
(Print/Type Name)

Hope Casas  
(Signature)

Hope CASAS  
(Print/Type Name)

OWNER: Historic Tours of America, Inc.

By: [Signature]  
(Signature)

Edwin O. Swift, III  
(Print/Type Name)

President  
(Title)

Address: 201 Front Street, Suite 224  
Key West, Florida 33040

STATE OF FLORIDA  
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this 2nd day of August, 2004, by Edwin O. Swift III, who is/are personally known to me or produced \_\_\_\_\_ as proof of identification and did take an oath.

KAREN G. MORAN  
Notary Public (Print Name)

My Commission Expires: 4/22/2008

Karen G. Moran  
Notary Public (Signature)



Karen G. Moran  
My Commission DD312883  
Expires April 22, 2008

Real Estate No. # 00118430.000000

Affordable Housing Deed Restrictions

Page 3 of 4



## ATTACHMENT A

**LEGAL DESCRIPTION:** (as provided)

A tract of land in a part of Gov't Lot 3, Section 3, Township 67 South, Range 27 East, on Sugarloaf Key, Monroe County, Florida and being more particularly described by metes and bounds as follows:

Commencing at the intersection of the West line of Gov't Lot 3 and the centerline of U.S. Highway No. 1, bear North 56 degrees and 03 minutes East along the centerline of U.S. Highway No. 1 for a distance of 800.00 feet to a point; thence bear South 33 degrees and 57 minutes East for a distance of 100.00 feet to the southeasterly right-of-way line of U.S. Highway No. 1, said point to be known as the point of beginning of the tract of land hereinafter described; from said point of beginning, bear North 56 degrees and 03 minutes East along the south easterly right-of-way line of U.S. Highway No. 1 for a distance of 73 feet, more or less, to a point on the shoreline of Upper Sugarloaf Sound; thence meander the shoreline of Upper Sugarloaf Sound in a southeasterly, southwesterly and northwesterly direction for a distance of 910 feet, more or less, to a point on the southeasterly right-of-way line of U.S. Highway No. 1; on the southeasterly right-of-way line of U.S. Highway No. 1; thence bear North 56 degrees and 03 minutes East along the southeasterly right-of-way line of U.S. Highway No. 1 for a distance of 445.00 feet, more or less, back to the point of beginning, containing 2.5 acres, more or less.

PREPARED BY: JOYCE SWEETING  
30051 POND LANE  
BIG PINE KEY, FL 33043

MONROE COUNTY  
OFFICIAL RECORDS  
FILE #1297686  
BK#1781 PG#109

**MONROE COUNTY PLANNING DEPARTMENT  
AFFORDABLE HOUSING DEED RESTRICTION**

**STATE OF FLORIDA  
COUNTY OF MONROE**

RCD May 01 2002 12:42PM  
DANNY L. KOLHAGE, CLERK

Notice is hereby given that:

- I. We Douglas and Lynn Bell, husband & wife and Jack & Joyce Sweeting, husband & wife the undersigned are the sole owner(s) of certain real property, situated, lying and being in Monroe County, State of Florida, Described as follows: See attachment A

Legal Description:

A tract of land in a part of Gov't Lot 3, Section 3, Township 67 South, Range 27 East, on Sugarloaf Key, Monroe County, Florida and being more particularly described by metes and bounds as follows:

Real Estate Number: 00118430-000000

- II. The residential unit Building Permit Numbers are: (Unit 1: 01-1-0344), (Unit 2: 01-1-0345), (Unit 3: 01-1-0346), (Unit 4: 01-1-0347), (Unit 5: 01-1-0358), (Unit 6: 01-1-0349), (Unit 7: 01-1-0350), (Unit 8: 01-1-0351), and (Unit 9: 01-1-0352)
- III. Under the affordable housing provisions set in Chapter 9.5 of Monroe County Land Development Regulations, the owners of the above-described real property have been exempted from payment of "Fair Share Impact Fees" for (9) single family residential units to be constructed on said real property.
- IV. The annual adjusted gross income for the owner-occupied or tenant occupied household does not exceed one hundred (100) percent of the median adjusted gross annual income within Monroe County.
- V. The rent (employee housing/tenant) will not exceed thirty (30) percent of the median adjusted gross annual income divided by 12 households within Monroe County.
- VI. Under Monroe County Code Section 9.5-266, the affordable housing dwelling unit is restricted to a maximum of one thousand three hundred (1,300) square of feet habitable space for a period of at least twenty (20) years.

Real Estate No. # 00118430-000000  
Affordable Housing Deed Restriction

Page 1 of 4

Initial JS

- VII. The applicant(s) have used the affordable housing program to gain additional points in the permit allocation system pursuant to Monroe County Section 9.5-122.3(6).
- VIII. The covenants shall be effective for twenty (20) years, but shall not commence running until a certificate of occupancy has been issued by the building official for the dwelling unit(s) to which the covenant or covenants apply. This deed restriction shall remain in effect for (20) years regardless of the owner(s) or occupant(s) ability to comply or re-qualify on an annual basis or as otherwise required.
- IX. All of these restrictions herein shall be binding upon any transferees, lessees, heirs, assigns or successors in the chain of title.

We certify that we are familiar with the information herein contained and that is true and correct to the best of my knowledge and belief and we will abide by the above stated restrictions pursuant to the Monroe County Code Chapter 9.5 as may be amended from time to time.

WITNESSES:

[Signature]  
(Signature)  
Karen Haack  
(Print/Type Name)

[Signature]  
(Signature)  
Marquise L. Clarke  
(Print/Type Name)

\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Print/Type Name)

OWNER OR OWNERS

[Signature]  
(Signature)  
[Signature]  
(Print/Type Name)

Address: 921 [unclear]  
[unclear]

[Signature]  
(Signature)  
[Signature]  
(Print/Type Name)

Address: 331 [unclear]  
[unclear]

[Signature]  
(Signature)  
[Signature]  
(Print/Type Name)  
Address: 1000 [unclear]  
[unclear]



\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print/Type Name)

Karen M. Sweeting  
(Signature)

JOYCE M. SWEETING  
(Print/Type Name)

Address: 100 FERN AVE  
Big Pine Key, FL 33443

The foregoing instrument was acknowledged before me the 21<sup>st</sup> day of December,  
2001 A.D. by Doug & Lynn Bell, Jack & Joyce Sweeting,  
is/are personally known to me or has produced  
as identification.

My Commission expires



Karen Ann Haack  
MY COMMISSION # CC858314 EXPIRES  
July 26, 2003  
BONDED THRU TROY FAIR INSURANCE, INC.

Karen Ann Haack  
Notary Public (Signature)

Karen Ann Haack  
Notary Public (Print Name)

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

BY [Signature]

Attorney's Office

**ATTACHMENT A**

**LEGAL DESCRIPTION: (as provided)**

A tract of land in a part of Gov't Lot 3, Section 3, Township 67 South, Range 27 East, on Sugarloaf Key, Monroe County, Florida and being more particularly described by metes and bounds as follows:

Commencing at the intersection of the West line of Gov't Lot 3 and the centerline of U.S. Highway No. 1, bear North 56 degrees and 03 minutes East along the centerline of U.S. Highway No. 1 for a distance of 800.00 feet to a point; thence bear South 33 degrees and 57 minutes East for a distance of 100.00 feet to the southeasterly right-of-way line of U.S. Highway No. 1, said point to be known as the point of beginning of the tract of land hereinafter described; from said point of beginning, bear North 56 degrees and 03 minutes East along the south easterly right-of-way line of U.S. Highway No. 1 for a distance of 73 feet, more or less, to a point on the shoreline of Upper Sugarloaf Sound; thence meander the shoreline of Upper Sugarloaf Sound in a southeasterly, southwesterly and northwesterly direction for a distance of 910 feet, more or less, to a point on the southeasterly right-of-way line of U.S. Highway No. 1; on the southeasterly right-of-way line of U.S. Highway No. 1; thence bear North 56 degrees and 03 minutes East along the southeasterly right-of-way line of U.S. Highway No. 1 for a distance of 445.00 feet, more, or less, back to the point of beginning, containing 2.5 acres, more or less.

*Handwritten initials: JH*